

ALABAMA BOARD OF EXAMINERS IN PSYCHOLOGY

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PROCEDURES FOR COMPLAINTS AGAINST LICENSEES

1. INQUIRIES REGARDING MAKING A COMPLAINT:

Upon inquiry the complaint form and the complaint procedures will be sent to the individual making the inquiry. Anonymous or oral complaints will not be accepted.

2. PROCEDURES FOR RECEIPT OF A COMPLAINT AT THE BOARD'S OFFICE:

- 1) The complaint form will be date-stamped upon receipt.
- 2) The executive officer shall ascertain whether or not the individual named in the complaint is currently licensed by the Board. Upon ascertaining such, the executive officer shall appoint a Board member or members to serve on an investigative committee with the executive officer and legal counsel regarding the charge(s) made against the licensee. The executive officer and legal counsel are non-voting members of the committee.
- 3) If a complaint falls within the Board's jurisdiction then notice will be sent to the complainant that an investigation committee has been appointed.
- 4) If complaint concerns an area outside the Board's jurisdiction, the Board will submit a non-jurisdiction letter to the complainant. If applicable, the complaint also will be forwarded to the appropriate agency.

3. INVESTIGATION - REVIEW BY THE INVESTIGATION COMMITTEE:

- 1) No member of the investigation committee will discuss the case with other Board member(s).
- A) If the committee considers the complaint appropriate for investigation, it will recommend a course of action regarding investigation of the complaint. This is determined on a case-by-case basis. The Board may hire or use investigators to pursue complaints against licensees. In most cases the licensee is informed in writing with regard to the nature of the complaint and given an opportunity to respond. When a complaint is received about a supervisee of a psychologist, the supervisor may be contacted. When the

written complaint has been investigated and deemed to be without merit (no probable cause for a disciplinary hearing) the licensee and the complainant shall be notified that there has been a finding of “no probable cause” and the file is closed.

- 2) If the committee finds “probable cause for a disciplinary hearing,” then Board counsel proceeds with the filing of administrative charges and a formal hearing to present evidence to the full Board regarding the complaint.

4. INFORMAL SETTLEMENT:

After the filing of administrative charges, the licensee and the licensee’s attorney, if represented by counsel, may meet with the Board’s attorney to determine whether a settlement of the complaint may be reached. The Board’s attorney is responsible for conducting settlement negotiations. If the meeting results in a settlement agreement, a “Consent Agreement” is signed by the licensee. The Agreement is then reviewed by the full Board during Executive Session at a public meeting of the Board of Examiners in Psychology. A vote to accept, reject or modify the Agreement will occur in the public session of the Board’s meeting. If a final settlement is reached and signed by all parties, it will be maintained in the licensee’s public discipline file at the Board office. The licensee’s name will be included in the public cumulative list of disciplinary actions and will be reported to the Association of State and Provincial Psychology Board’s Disciplinary Data Bank and other regulatory agencies. There is no requirement to enter into a settlement agreement or even conduct settlement negotiations.

5. HEARING:

If a formal hearing is to be conducted, the following procedures will be observed:

- 1) A notice of the Administrative Complaint including the Statement of Charges, Notice of Hearing and Explanation of Rights shall be sent in writing to the last known address of the licensee. The complaint shall be forwarded by certified mail, return receipt requested.
- 2) The licensee will be given a minimum of twenty (20) days notice in writing of the charge(s) against him/her, and the date, time and location of a public hearing for the Board to consider the evidence in the case.
- 3) A transcript of the hearing will be officially recorded by a court reporter.
- B) The licensee may at all times be represented by counsel of his/her choosing or may waive this right.

- 4) At a hearing, either the full Board shall sit or the Board shall appoint a hearing officer to hear the case. If the Board sits, a quorum of the Board must be present at the hearing. However, the individual Board member(s) who has assisted with the investigation of the complaint shall not participate in the deliberations of the Board and shall not vote on the disciplinary action to be taken.
- 5) If the Board appoints a hearing officer, the hearing officer shall have the authority to determine pre-hearing matters such as motions, subpoenas, etc., preside over the hearing, and issue recommendations to the Board about whether or not disciplinary action should be imposed against the licensee based on the evidence presented at the hearing. The Board will notify the licensee of the name and address of the hearing officer.
- 6) After notice to the licensee of the administrative charges, nonappearance of the licensee shall not prevent a hearing on the administrative charges.
- 7) At a formal hearing the Board may administer oaths and procure by its subpoenas the attendance of witness and the production of relevant records.
- 8) The hearing shall proceed in accordance with the rules of evidence for a non-jury civil case. The burden of proof required to substantiate the charge(s) is a preponderance of the evidence. In general, the Board's administrative hearing is governed by the "Alabama Administrative Procedures Act" Alabama Code, §41-22-12 et seq. (1975)
- 9) At the hearing, the licensee and his/her attorney may present evidence and testimony on his/her behalf. The Assistant Attorney General who represents the Board presents the case against the licensee.

6. FINAL ORDER OF THE BOARD:

- 1) After a review of all the evidence, the Board shall vote to determine whether violations of the law and/or rules and regulations have occurred. If the Board finds the administrative charges were proven against the licensee then, the Board shall determine the discipline to be imposed. A formal vote on the discipline occurs during a public session. Then, the Board issues a final order that contains the findings of fact and conclusions of law pertinent to the case. Findings of fact shall be based solely on the evidence in the record and on matters officially noted in the record.

- 2) Any disciplinary action adjudged appropriate by the Board shall be forwarded via certified mail to the licensee, complainant and relevant regulatory bodies within thirty (30) days following the final order by the Board. Disciplinary actions may include: suspension or revocation of license, refusal to issue a license, or non renewal of license for a period not to exceed three years.

7. POST HEARING MATTERS:

- 1) The Board in its discretion may suspend a license, revoke a license or place a licensee on probation. In addition to the suspension, the Board also may require in writing that the licensee serve a probationary period to obtain further education, training, personal counseling, psychotherapy or such treatment as is necessary to the satisfaction of the Board to remediate any personal or professional deficiencies that contributed to the suspension or revocation.
- B) The Board may assess the cost of any investigation, legal service, legal proceeding, or disciplinary action against any applicant or licensee found to be in violation of this chapter [see Alabama Code § 34-26-46 (c)].
- 3) Appeals of the decision of the Board shall be made in accordance with the Alabama Administrative Procedure Act governing appeals in contested cases.